




## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of )  
Stringfellow, et al. )  
Serial No. 10/566,812 )  
Filed January 25, 2007 )  
For FUNGICIDAL COMPOSITION )  
THROUGH PERIDERM BARK )  
APPLICATION TO WOODY PLANTS )

Group Art Unit 1714

## CERTIFICATE OF MAILING

I hereby certify that this correspondence was deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 31, 2008.

  
Jennifer Thornton, Secy. to Arthur M. Regnelli

## DECLARATION OF Todd O'Connell

37 C.F.R. § 1.132

Sir,

I hereby declare that:

1. My educational background includes B.A. degrees in Chemistry and Biology from North Central College, Naperville, IL.
2. My professional experience includes over 25 years as a professional chemist in the areas of technical development and analytical chemistry. During this time, I spent about ten years performing technical research and development in the area of organic chemicals. Following that experience, I have worked in the area of agricultural chemicals including technical research relating to surfactants for use with various agricultural chemicals.
3. I am currently employed by Exacto, Inc. and hold the position of Senior Analytical Chemist.
4. I have been asked by Mr. William Stringfellow, the inventor of the invention described in U.S. Application No. 10/566,812, to provide my opinion as

to what one of ordinary skill in the art understood at the time of Mr. Stringfellow's invention.

5. I have reviewed U.S. Publication No. 2007/0148200 A1, which is the publication of Mr. Stringfellow's invention that is currently under examination at U.S. Application No. 10/566,812. I understand that the Examiner believes that Mr. Stringfellow's invention would have been obvious.

6. Systemic insecticides and plant growth regulators have been employed to treat trees. Those skilled in the art also understand that in order to be effective, systemic chemicals must enter into the vascular system of a tree. This could be accomplished by foliar application, soil application for eventual uptake through the root system of a tree, or by mechanically penetrating the bark of a tree to deliver the systemic fungicide to the internal portions of a tree. In the case of oil-soluble herbicides, oil based solvents have been employed to attempt to penetrate the bark of trees.

7. I do not believe that one of skill in the art would be inclined to include an organosiloxane surfactant as employed by Mr. Stringfellow within oil-based compositions or emulsions or with oil-based or emulsifiable chemicals such as insecticides. Those skilled in the art understand that the types of organosiloxane surfactants described in Mr. Stringfellow's Application (particularly the ethoxylated versions thereof) would be incompatible with oil-based compositions.

8. I declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code and that such willful false

statements may jeopardize the validity of this application and any patent issuing thereon.

Respectfully submitted,

Todd O'Connell

Todd O'Connell

Date: 3/31/08